THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 15237 of 2006

Date:16-03-2007

Between:

Wajid Ahmed and another ..
PETITIONER

AND

The Commissioner of Police, Hyderabad City and two others

..
RESPONDENTS

ORDER:

None appears for the petitioners.

The petitioners seek a writ of mandamus to declare the action of the 3rd respondent in not investigating and in not filing charge sheet in Crime No.178 of 2003 of Hussainialam Police Station, Hyderabad, as illegal and arbitrary.

2. A counter has been filed stating that on a complaint lodged by the first petitioner on 11.11.2003 a case in Cr.No.178 of 2003 for the offence under Sections 307 read with 34 of the Indian Penal Code, 1860 has been registered and after investigating the case, the case was referred as undetected due to lack of evidence and accordingly final report was filed on 05.08.2006 on the file of the II Metropolitan Magistrate, Nampally at Hyderabad. However, it is stated that there is a delay in filing the final report and the 3rd respondent tenders unconditional apology for the delay in filing the final report.

3. As the final report is filed, it is for the learned Magistrate concerned to consider the same in accordance with Section 159 of Cr.P.C. If the learned magistrate fails to take appropriate action under Section 159 Cr.P.C. on the report received, it is open for the petitioners either to file a private complaint or to take appropriate steps by way of filing a protest application.

The writ petition is accordingly disposed of. There shall be no costs.

V.ESWARAIAH, J.

Date:16.03.2007
CCM/DSK